

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JACK DARNELL HENDRICKS,

Defendant-Appellant.

UNPUBLISHED

June 21, 2011

No. 297371

Muskegon Circuit Court

LC No. 09-058294-FH

Before: SHAPIRO, P.J., and O'CONNELL and OWENS, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial conviction of breaking and entering a building with intent to commit a larceny, MCL 750.110. Defendant was sentenced as a fourth habitual offender, MCL 769.12, to 76 months to 25 years in prison. We affirm.

The prosecution alleged that defendant broke into a high school, stole several computers, and sold at least one computer to a pawn shop. Defendant made an inculpatory statement in which he admitted breaking into the school on a specified date, taking the computers, and selling a computer. Defendant argues on appeal that his statement to police should not have been considered by the trial court because the corpus delicti of the crime had not been independently established. We disagree.

We review a lower court's decision regarding the corpus delicti requirement for an abuse of discretion. *People v Burns*, 250 Mich App 436, 438; 647 NW2d 515 (2002). A trial court does not abuse its discretion when it chooses an outcome within the range of reasonable and principled outcomes. *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003).

Defendant concedes that his statement to police was admissible as an admission by a party-opponent, MRE 801(d)(2), but contends that the statement was inappropriately considered as evidence of the corpus delicti of the crime for which he was charged.

The elements of breaking and entering with intent to commit larceny are: (1) the defendant broke into a building, (2) the defendant entered the building, and (3) at the time of the breaking and entering, the defendant intended to commit a larceny therein. *People v Cornell*, 466 Mich 335, 360-361; 646 NW2d 127 (2002). The corpus delicti refers to the body (corpus) of the wrong (delicti). *People v Williams*, 422 Mich 381, 390; 373 NW2d 567 (1985). The corpus

delicti is “the loss sustained.” *Id.* (quotation omitted). Here, the corpus delicti of the crime was that a person broke into the school with intent to commit a larceny.

The general rule is “that the corpus delicti of a crime must be established by evidence other than a confession or admission of the accused.” *People v Hamp*, 110 Mich App 92, 96; 312 NW2d 175 (1981); *People v McMahan*, 451 Mich 543, 548; 548 NW2d 199 (1996). “In order to establish the corpus delicti of a crime, the prosecution must introduce evidence from which a trier of fact reasonably may find that acts constituting all the essential elements of the crime have been committed and that someone’s criminality was responsible for the commission of those acts.” *Hamp*, 110 Mich App at 96-97. “The corpus delicti rule requires that a preponderance of direct or circumstantial evidence, independent of a defendant’s inculpatory statement, establish the occurrence of a specific injury and criminal agency as the source of the injury before such statements may be admitted as evidence.” *Burns*, 250 Mich App at 438.

Defendant argues that the only evidence that defendant entered the school and took computers came from his statement to the police, in which he informed them that he entered the school through unlocked doors and took the computers from the school to support a cocaine habit. However, proof of the identity of the perpetrator is not part of the corpus delicti of a crime. *People v Konrad*, 449 Mich 263, 270; 536 NW2d 517 (1995). Here, the evidence showed that seven computers were missing from a computer cart located in a non-public room that could only be accessed by going through two sets of doors, and that defendant sold a computer identified as belonging to the school to a pawn shop. This evidence satisfied the corpus delicti requirement that someone entered the private area of the school through the doors and took school computers, at least one of which defendant sold. The trial court did not abuse its discretion in considering the contents of defendant’s statement to the police.

Next, defendant argues that the trial court should have granted him a continuance at the first day of trial. We disagree. A motion for adjournment must be based on good cause. *People v Jackson*, 467 Mich 272, 276; 650 NW2d 665 (2002). In determining whether a defendant has shown good cause, the trial court should consider factors such as “whether the defendant (1) asserted a constitutional right, (2) had a legitimate reason for asserting the right, (3) had been negligent, and (4) had requested previous adjournments.” *People v Coy*, 258 Mich App 1, 18; 669 NW2d 831 (2003), quoting *People v Lawton*, 196 Mich App 341, 348; 492 NW2d 810 (1992). We review a trial court’s decision on a motion for an adjournment or a continuance for an abuse of discretion. *People v Snider*, 239 Mich App 393, 421; 608 NW2d 502 (2000).

Defendant argues that he was deprived of his ability to present a defense because his parole officer could have testified that defendant was in jail at some time around the date the prosecution alleged that the crime occurred. However, defendant told the police the date on which he committed the crime. Additionally, defendant did not move for the continuance until the day before trial and did not file a notice of an alibi defense as required under MCL 768.20(1). Notably, defendant had received a prior continuance to arrange for witnesses to testify regarding his whereabouts on the days in question and defendant was not able to accurately identify his parole officer, the potential witness. Defendant did not demonstrate the good cause or due diligence required for the trial court to grant a continuance or adjournment. MCR 2.503(C); see *Coy*, 258 Mich App at 18.

Moreover, defendant was not prejudiced by the trial court's denial of the motion for a continuance. See *Coy*, 258 Mich App at 18-19. As the trial court noted, defendant could not have been surprised about the date the prosecution alleged the crime was committed because defendant supplied that date to the police. Further, the date in the amended information was stated in the police report, a copy of which defendant possessed. No evidence indicated that defendant was incarcerated on the date on which he informed the police that he committed the crime.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Peter D. O'Connell
/s/ Donald S. Owens